

Good morning, Chairman Shuster, Ranking Member Norton, and other distinguished Members of the Subcommittee. My name is David Winstead, and I am the Commissioner of the Public Buildings Service at the U.S. General Services Administration (GSA). First, I want to thank the Subcommittee for its ongoing support of the Public Buildings Service and its programs that serve all branches of Government. We appreciate your annual review and approval of our capital projects, and, most recently, our FY 2007 program. Finally, I would like to thank the Subcommittee for its continued support in maintaining the integrity of the Federal Buildings Fund.

It was one year ago that my predecessor, Commissioner Moravec, testified before this Subcommittee to address the Judiciary's ability to pay for current and future space needs. At that time, GSA expressed its opposition to the Federal Judiciary's request for a permanent annual rental exemption, an exemption that would excuse \$483 million in rent in the first year alone. We also presented facts regarding the Judiciary's space occupancy and its growth over the last decade, outlined the Federal Buildings Fund and our approach to rent pricing, as well as presented a number of options the Judiciary could explore to reduce space costs.

I am pleased to be here today to share GSA's response to GAO's latest report on Federal Courthouses. I look forward to informing you of our actions that address the findings and recommendations in the report, as well as our planning efforts with the Judiciary to meet their future space needs.

GAO presented three findings in its report to explain the Judiciary's higher rents: increased space, stricter security needs, and rising energy costs. We agree that the primary factor underlying the Judiciary's aggregate rent increases has been, and continues to be, the total increases in space the Judiciary uses. Measured in terms of square feet of space provided, the Judiciary is our second largest customer. As of May 2006, it occupied over 41 million rentable square feet – 13 percent of GSA's total space holdings. It has experienced, by far, the fastest growth in square footage of any customer we serve. The Judiciary has more than tripled the amount of space it occupies over the last 30 years – averaging a net increase of a million square feet a year. Over the last ten years alone, the Judiciary's space usage has almost doubled. In fact, between 1995 and 2005, GSA delivered 46 new courthouses or annexes (17 million square feet) at a cost of \$3.4 billion from the Federal Buildings Fund. With this Subcommittee's oversight and approval, GSA has supplied more resources for new construction to the Judiciary than to any other customer.

As far back as 1996, the Judicial Conference's Committee on Security, Space and Facilities issued a report with the following recommendations: (1) reduce the projected increase in space, including release of underutilized space (particularly court facilities without resident full-time judges and libraries); (2) cancel proposed low-usage space; (3) share space; and (4) encourage the circuit judicial councils to consider the long-term costs of their space decisions. Although few of these recommendations were implemented, they are still relevant today, and GSA believes they provide the greatest opportunity to address the Judiciary's funding issues.

### Space

It is our understanding that there are currently 71 facilities occupied by the Judiciary with no full-time resident judges. Many of these facilities are in depressed market areas and the appraisal-based rents that GSA charges do not cover their operating and capital improvement needs.

The Judicial Conference has long recognized the need to return facilities that are not used by full-time resident judges; however, it has only released 15 courthouses in the last decade. More can be done. Releasing all 71 of these facilities would save the courts approximately \$13 million per year.

Another opportunity to reduce cost is to enhance space utilization by taking a serious look at courtroom sharing. The Judiciary maintains a general practice of assigning a trial courtroom to each active District judge. Additionally, the Judiciary often extends this policy on an *ad hoc* basis to Magistrate judges, Senior Judges for more than ten years, and Bankruptcy judges.

For over a decade, courtroom use and sharing has been studied and recommendations made to share space wherever possible; however, progress has been limited.

As far back as 1985, GAO studies found that courtrooms were in use for less than 50 percent of the available workdays in seven cities. A 2001 analysis by the Congressional Budget Office suggested that courtroom sharing could increase use to more than 60 percent, and the President's FY 2001 budget request for courthouse construction projects included a statement that the request "assumes courtroom sharing" and the budget for each of the projects assumed there would be two courtrooms for every three judges. GSA believes that great opportunity remains to reduce cost by more sharing of space, specifically courtroom sharing.

## Security

The second key finding in the GAO report is the rising costs of security, and how it has become a disproportionate cost of rent. Security costs are rising for all of our customers, and we have been actively working to reduce costs whenever possible. Security enhancements, such as progressive collapse and window protection, are important features in new and existing buildings and can increase building costs by up to six percent. For courthouses with their additional security enhancements, building costs can increase by eight percent. We will be publishing a new Perimeter Security Guidebook this Fall, which will improve the efficiency of security design while continuing to maintain open and accessible public buildings.

We are finding a great deal of success when we integrate security requirements early in the design process. We can also save money by reducing the distinctions between an architectural element and a security element. For example, at the Seattle Courthouse, Art and Architecture projects are used to provide external vehicle standoff. Another example is the pre-Katrina security enhancements at the U.S. Courthouse in Gulfport, Mississippi, which served a dual purpose during last year's hurricane season. The window protection installed at the building addressed both hurricane and security needs. Additionally, bollards installed in front of the building offered physical security,

both intentional and unintentional (for example, it protected the building from floating debris). This minimized damage and provided cost savings during the hurricane recovery.

## Energy

The last key finding is the disproportionate rise of energy costs. With today's rising energy prices, GSA has been aggressively working to explore the use of new technology and to reduce our use of fossil fuels. Over the past decade, GSA has achieved a 30 percent reduction in energy consumption (BTU/GSF), and our energy costs are consistently lower than those in the private sector. We are currently rewriting our Facility Standards for the Public Buildings Service to incorporate Energy Performance Act (EPACT) of 2005 requirements.

In our continuing pursuit of new technologies, we apply sustainable design principles to incorporate energy efficiency into our new construction and major modernization projects. Some of our key initiatives to reduce energy consumption and overall energy costs include implementing energy efficient HVAC and lighting, systems, and instituting more effective operating procedures.

We are making progress in the development of specific projects. For example, the new Los Angeles Courthouse has been redesigned to replace its 20 story atrium with a two-story entry/lobby space. The design's iconic profile remains, but the building envelope is leaner and tighter, and its energy use is

measurably improved. At the new Salt Lake City Courthouse, we are taking a cutting edge approach to energy modeling. The design is being drawn using a “building information modeling” 3-D system that, in turn, will allow us to test and develop the most sustainable, energy efficient structure possible. Of course, we continue to review these projects for additional efficiencies as well.

Today, GSA has an award-winning energy program that uses energy reduction measures and leverages GSA’s buying power to achieve significant energy savings for its federal customers. The resulting savings go straight into the Federal Buildings Fund, where they are appropriated by Congress for reinvestment and new construction for our customers.

#### GAO Recommendations

GAO also made two recommendations in its report. The first is that GSA and the Administrative Office of the United States Courts (AOUSC) work together to track rent and square footage data in a way that enables the courts to track the effects of their space management decisions. The second recommendation is that the AOUSC work with the Judicial Conference of the United States to create incentives for districts or circuits to manage space and space consumption more efficiently and to refine space allocation criteria for senior judges and types of space, such as libraries, that may no longer be necessary due to technological advancements.

With regard to the first recommendation, over a decade ago, the Judicial Conference recognized that the space occupied by the Judiciary was increasing far faster than its ability to pay for it. In its 1996 Conference's report of the Committee on Security, Space, and Facilities, they estimated that rent would reach \$731 million by FY 2000 given space acquisition plans, reflecting an increase of 59 percent over the FY1995 level. Rent rose to nearly the level predicted by the courts' committee – \$672 million by FY 2000 and exceeded the prediction by FY 2001 with rent at \$740 million. The judiciary's use of space continues to increase – by 5 percent from April 2005 to April 2006. Of note, the Judiciary's rent for existing space is projected to *decrease* by one percent, or over \$9 million, in fiscal year 2008 over the previous fiscal year.

We believe that we have the programs and systems in place to assist the AOUSC to track rent and square footage trends on an annual basis as well as assist with revising the Court Design Guide.

Per GSA's rent pricing policy, GSA informs its customers of rent implications as early as possible on two levels: one, at the project level, and two, at the aggregate level for their total rent bill. At the project level, such as when a new courthouse is being built, project changes with rent implications are documented in Occupancy Agreements, which require the customer's approval and signature. At the portfolio level, which includes all of the Judiciary's



occupancy in courthouses, GSA provides a detailed projection of rent costs two years in advance, known as the Rent Estimate. GSA can also analyze specific rent trends and provide this information to customers.

With regard to GAO's second recommendation that the AOUSC work with the Judicial Conference of the United States to create incentives for Federal judicial districts or circuits to manage space more efficiently, we think that is essential. GSA supports and endorses the original purpose behind the 1972 Act which established the Federal Buildings Fund as a revolving fund and the rent/user charge system. Congress intended GSA's rent/user charge system to be an incentive for Federal agencies to hold down the costs of the space they request and to promote accountability for the amount and quality of space they use. In fact, one could argue that the controversy between the Judiciary and GSA is largely based on the effectiveness of the Federal Buildings Fund system. It is effective and working as intended.

At the project level, judges and local court personnel may make decisions about project scope without full regard to the long-term impact on rent. However, the central budget arm of the Judiciary – the AOUSC – pays the rent bill. We will support any efforts by the AOUSC to connect local space decisions with the accountability for paying for these decisions. I think all of us understand that anyone who has the ability to make purchase decisions without the responsibility to pay the bill might not feel the same incentive to curb costs as someone who has responsibility to pay the bills.

I'd now like to share with you what steps we've taken in the last year. We have made progress in three areas: partnering, billing accuracy and lease re-negotiation.

#### Partnering with the Judiciary

GSA has partnered with the Judiciary on three levels. At the Executive level, with new leadership at GSA as well as the Judicial Conference and the AOUSC, there is an opportunity to re-establish the effective partnership we have experienced and benefited from in the past. I have met Judge Thomas Hogan, who now leads the Executive Committee of the Judicial Conference, and spoken with Chief Justice Roberts on this matter. I have met with Judge Jane Roth, Chair of the Committee on Security, Space, and Facilities, as well as attended portions of the last two Judicial Conference sessions. Mrs. Lurita Doan, our new Administrator, and I will meet with Mr. James Duff, once he joins the AOUSC as its new Director upon Mr. Mecham's impending retirement. The Administrator and I intend to reach out to the highest levels, and we are both committed to achieving a workable solution for all involved.

At the national program level, we have re-established partnering sessions between GSA and the Judiciary to discuss recent projects as well as variety of program issues, such as courtroom accessibility and design management. We have committed to working together on space analysis and planning methodology, offering comments on the Design Guide, discussing GSA's risk assessment tool for physical security, and enhancing the Architect/Engineer Selection Process.

At the project level, every new courthouse has a formal partnering meeting that includes the GSA project team, the Courts project team, the design Architects and Engineers and eventually the General Contractor. We are committed at every level to improving our partnering to assist in planning the future space needs of the Judiciary as well as to improve program and project delivery.

#### Rent Bill Accuracy

Another area of progress is in the accuracy of our rent bills. We are a large, complex operation with over 20,000 space assignments in our 8,900 buildings. Due to the volume, the human element involved and the complexity of our pricing/billing system, we do have errors. Through its own internal controls, GSA finds errors, and our customers bring errors to our attention. When errors are found, we move quickly to correct them.

Last year, GSA reviewed all of the Judiciary space assignments (over 2,500) for rent accuracy. The review resulted in a net decrease of \$13.1 million, which is approximately 1.4 percent decrease of the total rent bill for the Judiciary. A particular policy misapplication in one region accounted for \$12.2 million or 93 percent of the decrease.

The Judiciary has recently asked us to review forty appraisals used by GSA to calculate rents in owned space for accuracy. They have raised issues with ten appraisals, thus far questioning alterations to appraisal reports. We are

investigating each case thoroughly. Where errors of practice were made, we will make the necessary correction or have new third party appraisals done to confirm the appropriate rent rate. GSA is expediting ongoing efforts to strengthen and implement reforms to improve our appraisal and rent rate setting practices.

Finally, to make our billing process more accurate and efficient, GSA recently developed an improved standardized billing process and hired a vendor for implementation. Before implementing this process, however, GSA is conducting a complete rent review of all of our customers' space assignments to verify that rent bills are accurate.

#### Renegotiating leases where market rates have dropped significantly

As part of GSA's routine stewardship of its leased inventory, we look for opportunities to take advantage of market conditions. Where market conditions are favorable and a lessor is willing, GSA will attempt to renegotiate a lease to take advantage of the market conditions. We have developed a performance measure to promote this practice.

Renegotiation of leases is GSA's third area of progress. While most of the Judiciary's space needs are met in Government-owned courthouses, a significant portion of the Court's expansion space needs are in leased locations. GSA has worked with the AOUSC to develop a methodology for determining which leases should be considered for renegotiation. The AOUSC designated 60 leases for this cost saving initiative. GSA reviewed these to identify leases with a

termination option or leases that would soon expire, leases located in a market where rates have fallen, and leases with special circumstances that might result in a more favorable lease for the Judiciary, *i.e.*, a landlord getting ready to sell his building, a landlord who recently lost a large tenant, etc. Fourteen leases were selected for the first phase of this project. They are predominantly located in markets west of the Mississippi River. GSA is in various stages of negotiations regarding the 14 leases and will continue to apprise the Judiciary of any developments in the renegotiation process.

Mr. Chairman, Ranking Member Norton, thank you for holding this important hearing. GSA is committed to advancing the recommendations mentioned by GAO and in working with the Judiciary, and with all of its customers, to improve space use and to reduce costs whenever possible. That concludes my prepared statement; I will be pleased to answer any questions that any Members of the Subcommittee may have. Thank you again for this opportunity to testify and to share GSA's views.